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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

HAWKINS & BUFORD et al. *v.* EDWARDS et al.

March 11, 1915.

[84 S. E. 654.]

1. Fraud (§ 65*)—Instructions—Applicability to Evidence.—In an action for deceit, where plaintiffs alleged that defendants misrepresented to them the date of maturity of a mortgage against the property, the physical condition of the improvements, and the rental value of the property, and it appeared that the misrepresentation as to the maturity of the mortgage was inadvertently made, and that defendants offered to correct it by carrying the mortgage without cost to plaintiffs until the date represented by them, an instruction that if one represented as true what he knew to be false, under such circumstances as to induce a reasonable man to believe it to be true, and it was intended to be acted on and was acted on, the persons acting thereon were entitled to such damages as they sustained thereby, if abstractly correct, was inapplicable and misleading, since under it the jury could award damages for the misrepresentation as to the maturity of the mortgage, though in fact no damage was thereby suffered.

[Ed. Note.—For other cases, see Fraud, Cent. Dig. §§ 72-74; Dec. Dig. § 65.* 7 Va.-W. Va. Enc. Dig. 720; 14 Va.-W. Va. Enc. Dig. 479; 14 Va.-W. Va. Enc. Dig. 564; 15 Va.-W. Va. Enc. Dig. 515.]

2. Trial (§ 234*)—Instructions—Direction of Verdict—Omission of Element.—An instruction which undertakes to state facts upon which plaintiffs could recover, but does not embrace all the elements necessary to support a recovery, is erroneous.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 534-538, 566; Dec. Dig. § 234.* 7 Va.-W. Va. Enc. Dig. 715; 14 Va.-W. Va. Enc. Dig. 562; 15 Va.-W. Va. Enc. Dig. 512.]

3. Fraud (§ 4*)—Misrepresentations—Liability—Intent.—One who made a misrepresentation without fraudulent design, and who offered to correct it, so that no damage could arise therefrom, could not be held liable for any damages because of such misrepresentation.

[Ed. Note.—For other cases, see Fraud, Cent. Dig. § 2; Dec. Dig. § 4.* 6 Va.-W. Va. Enc. Dig. 466; 14 Va.-W. Va. Enc. Dig. 471.]

4. Trial (§ 253*)—Instructions—Independent Inquiry.—An instruction purporting to state facts essential to a recovery of damages

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

for fraud, which makes no reference to the rule that one who makes an independent inquiry as to facts misrepresented cannot recover for the misrepresentation, though there is evidence tending to show such inquiry by plaintiffs, is erroneous.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 613-623; Dec. Dig. § 253.* 6 Va.-W. Va. Enc. Dig. 467; 7 Va.-W. Va. Enc. Dig. 715; 14 Va.-W. Va. Enc. Dig. 562.]

5. Appeal and Error (§ 882*)—Invited Error—Instructions—Evidence Admitted without Objection.—Where defendants, in an action for fraud, permitted evidence of misrepresentations, not alleged in the declaration, to be admitted without objection, they could not object to an instruction which did not limit the recovery to the misrepresentations declared on.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3591-3610; Dec. Dig. § 882.* 1 Va.-W. Va. Enc. Dig. 608; 14 Va.-W. Va. Enc. Dig. 99; 15 Va.-W. Va. Enc. Dig. 72.]

Error to Circuit Court, Henrico County.

Action by T. N. Edwards and another against Hawkins & Buford and others. Judgment for plaintiffs, and defendants bring error. Reversed and remanded for new trial.

Leake & Buford and *C. V. Meredith*, all of Richmond, for plaintiffs in error.

David Meade White and *S. A. Anderson*, both of Richmond, for defendants in error.

RIVERSIDE & DAN RIVER COTTON MILLS, Inc., v. WAUGH.

March 11, 1915.

[84 S. E. 658.]

Waters and Water Courses (§ 179*)—Injuries to Flooded Lands—Evidence—Similar Facts and Conditions.—In an action against the owner of a dam for injuries by flood to plaintiff's land lying a short distance below the dam, occurring at the time of an unusual freshet, it was error to refuse to allow defendant to introduce evidence as to the effect of the freshet on other lands of similar condition, situation, and cultivation on the same stream, some above and some below the dam.

[Ed. Note.—For other cases, see Waters and Water Courses, Cent. Dig. §§ 244-250, 256-259, 263, 264; Dec. Dig. § 179.* 9 Va.-W. Va. Enc. Dig. 821; 14 Va.-W. Va. Enc. Dig. 710.]

Error to Circuit Court, Pittsylvania County.

Action by L. T. Waugh against the Riverside & Dan River Cotton Mills, Incorporated. From a judgment for plaintiff, defendant brings error. Reversed and remanded for new trial.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.